

**UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA**

MOISES BARRAGAN,)
Petitioner,) 3:17-cv-00453-LRH-VPC
vs.) **ORDER**
TIMOTHY FILSON, *et al.*,)
Respondents.)

This is a habeas corpus proceeding under 28 U.S.C. § 2254 brought by Moises Barragan, a Nevada prisoner. Barragan has filed an *ex parte* motion for appointment of counsel. ECF No. 5.

16 “Indigent state prisoners applying for habeas corpus relief are not entitled to appointed
17 counsel unless the circumstances of a particular case indicate that appointed counsel is necessary to
18 prevent due process violations.” *Chaney v. Lewis*, 801 F.2d 1191, 1196 (9th Cir. 1986) (citing
19 *Kreiling v. Field*, 431 F.2d 638, 640 (9th Cir. 1970) (per curiam)). The court may, however, appoint
20 counsel at any stage of the proceedings “if the interests of justice so require.” See 18 U.S.C. §
21 3006A; see also Rule 8(c), Rules Governing § 2254 Cases; *Chaney*, 801 F.2d at 1196.

22 Based on his motion for leave to proceed *in forma pauperis* (ECF No. 3), Barragan lacks the
23 resources necessary to retain counsel. It also appears likely that there may be relatively complex
24 statute of limitations issues to be addressed at the outset of this case, and that Barragan may not be
25 able to adequately litigate those issues without counsel. Therefore, the court finds that appointment
26 of counsel is in the interests of justice.

1 **IT IS THEREFORE ORDERED** that petitioner's *ex parte* motion for appointment of
2 counsel (ECF No. 5) is GRANTED. The Federal Public Defender for the District of Nevada (FPD)
3 is appointed to represent petitioner. If the FPD is unable to represent the petitioner, due to a conflict
4 of interest or other reason, then alternate counsel will be appointed. In either case, counsel will
5 represent the petitioner in all federal-court proceedings relating to this matter, unless allowed to
6 withdraw.

7 **IT IS FURTHER ORDERED** that the Clerk of the Court shall electronically serve upon the
8 FPD a copy of this order, together with a copy of the petition for writ of habeas corpus.

9 **IT IS FURTHER ORDERED** that the FPD shall have 20 days from the date of entry of this
10 order to file a notice of appearance, or to indicate to the court its inability to represent the petitioner
11 in this case.

12 **IT IS FURTHER ORDERED** that the Clerk shall add Adam Paul Laxalt, Attorney General
13 of the State of Nevada, as counsel for respondents.

14 **IT IS FURTHER ORDERED** that the Clerk shall electronically serve upon respondents a
15 copy of the petition for writ of habeas corpus, and a copy of this order.

16 **IT IS FURTHER ORDERED** that respondents shall have 20 days from the date on which
17 the petition is served upon them to appear in this action. Respondents will not be required to
18 respond to the habeas petition at this time.

19 **IT IS FURTHER ORDERED** that the court will establish a schedule for further
20 proceedings after counsel appear for the petitioner and the respondents.

21 **IT IS FURTHER ORDERED** that petitioner's motion of appointment of counsel (ECF No.
22 2) and motion for leave to proceed *in forma pauperis* (ECF No. 3) are DENIED as moot.

23 Dated this 12th day of October, 2017.

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25 
26 LARRY R. HICKS
 UNITED STATES DISTRICT JUDGE